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11

12 UNITED STATES BANKRUPTCY COURT  
13 EASTERN DISTRICT OF WASHINGTON

14 IN RE: )

15 SCOTT WOODWORTH and )  
16 MESHELLE WOODWORTH, )  
17 Debtor )

CASE NO. 09-04500-FLK7

18 \_\_\_\_\_ )  
19 DEALER SERVICES CORPORATION, )  
20 )  
21 Plaintiff )

Adv. Pro. No. 10-80094-FLK

22 v. )

23 SCOTT WOODWORTH, )  
24 A/K/A SCOTT CHARLES WOODWORTH, )  
25 Defendant )  
26 )  
27 \_\_\_\_\_ )

AGREED FINDINGS OF  
FACT AND CONCLUSIONS  
OF LAW

28  
29 THIS MATTER having come on regularly before the above encaptioned court  
30 upon the stipulation of Plaintiff Dealer Services Corporation (DSC) by and through its  
31 attorney of record and Defendant Scott Woodworth by and through his attorney of  
32 record as is evidenced by their endorsements hereon below, and the court having  
33 reviewed the pleadings and documents on record, to include, without limitation, the  
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1 Affidavit of Kristi E. Miller, and deeming itself otherwise fully advised in the premises,  
2 does herewith make the following,

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4 **FINDINGS OF FACT**

5 1. Defendant Scott Woodworth endorsed the Note and Security  
6 Agreement attached as Exhibit "A" to the Affidavit of Kristi E. Miller.

7 2. That Plaintiff DSC duly and properly filed the UCC Financing  
8 Statement pertaining to DSC's security interest in the inventory and other collateral  
9 of Specialized Motors as described on Exhibit "B" to the Affidavit of Kristi E. Miller.

10 3. Defendant Scott Woodworth endorsed the Individual Personal  
11 Guaranty in favor of DSC as evidenced on Exhibit "C" to the Affidavit of Kristi E.  
12 Miller.

13 4. Debtor Scott Woodworth sold following vehicles which were financed  
14 by Plaintiff DSC:

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| <u>Vehicle Description</u>    | <u>VIN</u>        |
|-------------------------------|-------------------|
| 2005 BMW 3-Series 325xi       | WBAEU33485PF63239 |
| 2004 Audi A6 S-Line           | SAUCD64B94N096233 |
| 2003 Land Rover Range Rover   | SALMB11493A115898 |
| 2006 Ford Mustang GT          | 1ZVFT82H165219786 |
| 2005 Volkswagen New Beetle GL | 3VWBM31Y65M357798 |

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23 5. That pursuant to the terms of the Note and Security Agreement  
24 between the parties, the proceeds from the sales of the vehicles financed by DSC  
25 identified in finding of fact "4" hereof in the amount of Seventy-Six Thousand, Five  
26 Hundred Fourteen and 84/100 Dollars (\$76,514.84), were to be held in trust by  
27 Defendant Woodworth in the capacity of Trustee of such proceeds for transfer to  
28 DSC.

29 6. Debtor Woodworth failed to remit to Plaintiff DSC the proceeds from  
30 the sale of the vehicles identified in finding of fact "4" hereof. Debtor's defalcation  
31 while acting in a fiduciary capacity within the meaning of 11 U.S.C. § 523(a)(4), and  
32 the sum of which is DSC's actual damages relating to Woodworth's actions.  
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2 Based on the above, the Court enters the following,  
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4 **CONCLUSIONS OF LAW**

5 A. The actions of the debtor collectively constituted violations of debtors'  
6 fiduciary responsibilities to Plaintiff Dealer Services Corporation and are therefore  
7 nondischargeable under the provisions of 11 U.S.C. § 523(a)(4).  
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9 B. Debtor's defalcation while acting in a fiduciary capacity within the  
10 meaning of 11 U.S.C. § 523(a)(4), constitutes nondischargeable debt to DSC in the  
11 amount of DSC's actual damages in the sum of Seventy-Six Thousand, Five  
12 Hundred Fourteen and 84/100 Dollars (\$76,514.84).  
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14 Agreed to and Stipulated to be effective the date of entry.  
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16 DATE: March 9, 2011  
17

VELIKANJE HALVERSON P.C.

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19 By:   
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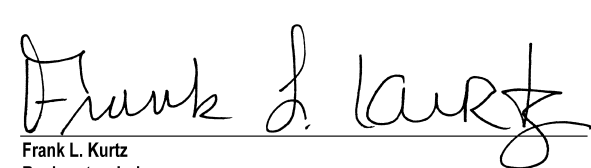
Carter L. Fjeld, WSBA #11290  
Attorneys for Plaintiff

21  
22 DATE: March 17, 2011  
23 

K. DENNY COLVIN, ATTORNEY AT  
LAW

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26 By:   
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K. Denny Colvin, WSBA #6827  
Attorney for Debtor/Defendant  
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Frank L. Kurtz  
Bankruptcy Judge

03/25/2011 09:56:57  
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